STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ARIANNA CARLSON, DAKOTA CARLSON, and NAVAEH PACK, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NIKKI CARLSON,

Respondent-Appellant.

UNPUBLISHED
October 11, 2005

No. 261656
Dickinson Circuit Court
Family Division
LC No. 03-000522-NA

Before: Smolenski, P.J., and Murphy and Davis, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating her parental rights under MCL 712A.19b(3)(g). We affirm.

Respondent first argues that the trial court erred when it allowed petitioner to seek removal of her newborn. Petitioner had agreed not to seek removal unless respondent substantially deviated from previous court orders.[1] Respondent did not preserve for review the issue whether she should have been able to withdraw her plea agreement because she did not seek to withdraw it in the trial court. See *In re Zelzack*, 180 Mich App 117, 126; 446 NW2d 588 (1989). Further, respondent could have directly appealed the order removing the child. See MCR 3.993(A)(1). She cannot now challenge the decision by collateral attack. *In re Hatcher*, 443 Mich 426, 436-440, 444; 505 NW2d 834 (1993); see also *In re Bechard*, 211 Mich App 155, 159-160; 535 NW2d 220 (1995).

Regardless, the trial court did not err when it found that respondent substantially deviated from court orders. Respondent was ordered to cooperate with service providers. After

[1] In return, respondent agreed to waive the issue of probable cause and admitted to the court's jurisdiction.

respondent had a male friend baby-sit the children, providers specifically instructed respondent that no one else could be present during visits. Soon after, respondent invited a teenage male runaway to stay overnight with her and the baby and allowed him to remain during a daytime visit with all three children. Together, these incidents constituted substantial deviation from the court order to cooperate with service providers.

Respondent also argues that the trial court's findings were insufficient under MCL 712A.19b(1) and MCR 3.977(H)(1) and (3), which require "findings of fact and conclusions of law." However, the trial court specifically asked the parties whether the court needed to make additional findings, and respondent's attorney said no. A respondent cannot consent to an error and then later raise it on appeal. *In re Gazella*, 264 Mich App 668, 679; 692 NW2d 708 (2005), citing *Marshall Lasser, PC v George*, 252 Mich App 104, 109; 651 NW2d 158 (2002).

Further, the findings were sufficient. The court's language indicated the statutory ground under which it terminated respondent's parental rights. This was sufficient in the present case because respondent did not challenge any of the facts and declined even to argue against termination. The court was also not required to make an express finding regarding the children's best interests because respondent did not offer any evidence that termination was against the children's best interests. See *Gazella*, *supra* at 677-678.

Affirmed.

/s/ Michael R. Smolenski
/s/ William B. Murphy
/s/ Alton T. Davis